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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	Before the Examiner
Eisermann et al.)	David C. Comstock
)	
Application Serial No. 10/734,041)	Group Art Unit 3733
)	
Filed December 11, 2003)	Ref. No. MSDI-222/
)	PC765.00
)	
EXPANDABLE INTERVERTEBRAL)	May 20, 2009
IMPLANT)	

Via Facsimile Transmission: 571-273-8300**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowability mailed to the Applicant on April 2, 2009, please enter and consider the following comments regarding the Statement of the Reasons for Allowance. No extension fees are believed to be due with regard to the filing of this communication. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

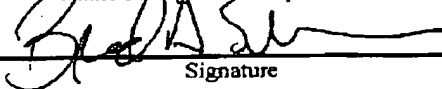
I hereby certify that this correspondence is being
facsimile transmitted to the United States Patent
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May 20, 2009

Date of Transmission

Brad A. Schepers

Name of Registered Representative



Signature

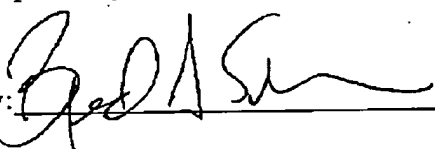
May 20, 2009

Date of Signature

REMARKS

In response to the Reasons for Allowance set forth in the Notice of Allowability mailed to the Applicant on April 2, 2009, please enter the following comments. The Statement of the Reasons for Allowance indicates that the independent claims are allowable in view of the recitation of "a sliding relationship between the expansion member and the axial walls to expand the device". However, the Applicant submits that the allowed claims recite other elements and features that are considered patentable over the art of record, and the Applicant further submits that patentability of the claims is not based solely on the single feature set forth in the Reasons for Allowance. Instead, patentability of the claims is based on the combination of the recited elements and features, taken as a whole, and is not limited to a single element or feature.

Respectfully submitted,

By: 

Brad A. Schepers
Reg. No. 45,431
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
(317) 238-6334 voice

Comments on Statement of
Reasons for Allowance
Application Serial No. 10/734,041
Inventor: Eisermann et al.
Filing Date: December 11, 2003

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